

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Ryan Patrick Navratil,

Petitioner,

v.

Civil No. 12-1533 (JNE/SER)  
ORDER

Lucinda Jesson, Commissioner of DHS,

Respondent.

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This case is before the Court on a Report and Recommendation issued by the Honorable Steven E. Rau, United States Magistrate Judge, on October 4, 2012. The magistrate judge recommended that Petitioner's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 be denied because Petitioner had not exhausted his state court remedies for all of his claims. The magistrate judge recommended that the action be dismissed without prejudice, unless Petitioner filed an amended habeas corpus petition listing only fully exhausted claims before October 18, 2012—the deadline for filing objections to the Report and Recommendation. Petitioner did not file an amended habeas corpus petition and no objections to the Report and Recommendation were filed within the requisite time period. The Court has conducted a de novo review of the record. *See* D. Minn. LR 72.2(b). Based on that review, the Court adopts the Report and Recommendation [Docket No. 19].

An appeal cannot be taken from a final order denying a petition under § 2254 without a certificate of appealability. 28 U.S.C. § 2253(c)(1)(A) (2006); Fed. R. App. P. 22(b)(1). A court cannot grant a certificate of appealability unless the applicant has made “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). Where a district court rejects claims on procedural grounds, the court should issue a certificate of appealability if the

petitioners shows “that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Because reasonable jurists would not find the rejection of Petitioner’s claims debatable, the Court declines to issue a certificate of appealability.

Therefore, IT IS ORDERED THAT:

1. Petitioner’s application for a writ of habeas corpus [Docket No. 1] is DENIED.
2. A Certificate of Appealability is DENIED.
3. This action is DISMISSED WITHOUT PREJUDICE.

LET JUDGMENT BE ENTERED ACCORDINGLY

Dated: November 7, 2012

s/Joan N. Erickson  
JOAN N. ERICKSEN  
United States District Judge